THE IVDGES IVDGEMENT.

A SPEECH

Penn'd in the beginning of the Parliament againſt the Iudges.

Per ignotum quendum.

Printed for *John Aſton*, 1641.

THE

JUDGES

JUDGMENT

SPIRIT

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A

SPEECH

Againſt the Judges *per Ignotum quendam.*

Mr. *Speaker,*

IT was a cuſtome amongſt the *Romans* (who as by their power they once gave lawes, ſo by the happy ſucceſſe of their long flouriſhing Government, might they well give examples to all the world) that in their Senates the youngeſt men ſpake firſt: partly that they might not have their weaker notions anticipated by the more knowing Senators. And partly for that the Senate might not be diverted frō the mature reſolutions of the more Antient by the interpoſitions of the younger men; They as all free States ever allowing free members to expreſſe themſelves according to their ſeverall capacities. And me thinkes t'was a happy Method. So your opinions and inclinations of the Aſſembly being diſcovered and ripened to reſolution by ſuch gradations, the ſentences of the Sages ſounded as Judgements, not orations, their wiſdome

and gravity put a ſeaſonable Period to others, perhaps otherwiſe endleſſe diſcourſes.

Their precedent encourages me, (who worſt may) to breake the Ice: Children can lay their fingers on the Sore, poynt out their paine; and Infant Graduates in Parliament may groane out the grievances of a diſeaſed Common-wealth, but they muſt be Doctors in the Art of government that can apply apt remedies to recover it.

Mr. *Speaker*, Antient and approved hath beene that Parallel of the body politique with the body naturall: 'Tis the part of the Patients in either diſtempered, to impart freely their griefes to the Phyſitians of the body or ſtate, if they expect a cure.

This Common-wealth is (or ſhould be) but one body. This houſe the great Phyſitian of all our maladies, and alas Mr. *Speaker*, of what afflicted part ſhall we poore Patients complaine firſt? Or rather of what ſhall we not complaine?

Are we not heart-ſick? Is there in us that which God requires, unity, purity, & ſingularity of heart? Nay is not Religion (the ſoule of this body) ſo miſerably diſtracted, that I ſpeake it with terrour of heart, 'tis to be feared there is more confuſion of *Religions* amongſt us, then there was of tongues at the ſubverſion of *Babell*: And is it not then high time that we underſtand one another, that we were reduc'd to one *Faith*, one *Government*.

Sir, *Is the head whole*: The ſeate of *Government* and *Juſtice*, the *Fountaine*, from whoſe ſweet in-

fluence

fluence all the inferiour members of this body ſhould receive both vigour and motion: Nay, hath not rather a generall Apoplexie, or Palſie, taken, or ſhaken all our members? Are not ſome dead? Others buried quick? Some diſmembred, all diſordered by the diverſion of the courſe of *Juſtice:*

Is the *Liver* (Natures exchequer) open; from whoſe free diſtribution each limbe may receive his proper Nutriment, or rather is it not wholly obſtructed? Our property taken from us? So that it may, Properly be ſaid of us. *Sic vos non vobis fertis aratra*, our Anceſtors drunke the juyce of their owne Vines, reap'd and eate the fruit of their own harveſt. But now the poore mans Plough goes to furrow the Seas, to build Ships: wee labour not for our ſelves but to feed excreſſions of Nature, things growne up out of the Ruines of the naturall members. *Monopoliſts.*

Sir, Theſe are *Maxime vitalia*; Religion, Juſtice property; The heart, the head, the *Liver* of this great body, and theſe diſtempered or obſtructed, can the ſubordinate parts be free? No Sir, the truth is; all is ſo farre out of frame, that to lay open every particular grievance were to drive us into deſpaire of cure: In ſo great confuſion where to begin firſt, requires not much leſſe care then what to apply.

Mr. *Speaker*, I know 'tis a plauſible motion to begin with ſetting Gods houſe in order firſt: who preſſes that moves with ſuch advantage, that hee is ſure no man will

will gain-say him. 'Tis a welbecomming zeale to preferre Religion before our owne affayres, and indeed 'tis a duty not to be omitted; where they are in equall danger: But in cure of the body politique or naturall wee must still preferre the most pressing exigents.

Physitians know that Consumptions, Dropsies, and such like lingering diseases are more mortall, more difficult to cure thē slight externall wounds: yet if the least Veyne be cut, they must neglect their greater cures to stop that, which if neglected must needs exhaust the stock of nature, and produce a dissolution of the whole man.

A Defection from the duties of our Religion is a Consumption to any State, no foundation is firme that is not laid in Christ.

The Deniall of Justice, the abridgment of our liberties, is such an obstruction as renders the Common-wealth *Leaprous*; *but the wounds* in our property let's out the life-blood of the people.

The Reformation of *Church-government* must necessarily be a worke of much time, and God be thanked the disease is not desperate; *We serve one God, we believe in one Christ, and we all acknowledge and professe one Gospell.* The difference is onely *de modo*, we vary but in Ceremonies to reduce, which to the Primitive practice, must be a worke of great debate, is not a worke for us alone to settle.

The stop of Iustice, can yet *Injure* but particulars, *'Tis true, there may be many, too many instances of strange oppressions, great oppressors*, but 'twill be hard to judge the Conclusion, *Et sic de cæteris*

But

But take from us the propriety of our eſtates, our ſubſiſtence, we are no more a people. This is that veyne which hath bin ſo deepe cut, ſo farre exhauſt, that to preſerve our being, we muſt doubtleſſe firſt ſtop this current: Then ſettle *Rules* to live by, when we are ſure to live.

Mr. *Speaker*, he that well weighs this little word property, or propriety in our eſtates, will find it of a large extent; The *Leeches* that have ſuckt this bloud, have bin *Exciſe*, *Benevolences*, *Loanes*, *Impoſitions*, *Monopolies*, *Military Taxes*, *Ship-money* (*cum multis aliis*) all which ſpring from one Roote.

And is it not high time to grub up that Roote that brings forth ſuch fruit? Shall we firſt ſtand to lop the branches one by one, when we may down with all at once? He that to correct an evill tree, that brings forth bad fruit ſhall begin at the Maſter bough, and ſo lop downwards, is in danger to fall himſelfe before the Tree falls. The faſer and ſpeedier way is to begin at the Roote, and there with ſubmiſſion to better judgments would I lay to the Axe.

The Root of moſt of our preſent miſchiefes, and the ruine of all poſterity, doe I hold, to be that extrajudiciall (Judgment I cannot ſay, but rather) doome delivered by all the Judges under their hands out of Court, yet recorded in all Courts, to the ſubverſion of all our fundamentall *Lawes*, *Liberties*, and *Annihilation*, if not *Confiſcation* of our eſtates. That in caſe of danger, the King may impoſe upon his Subjects, and that hee is the Sole

Judge of the danger, neceſſity & proportion, which in briefe, is to take what, when, and where he will, which though delivered in the time of a gracious and merciſull Prince, who we hope will not wreſt it beyond our abilities, yet left to the *Interpretation* of a ſucceeding Tyrant, if ever this Nation bee ſo unfortunate to fall into the hands of ſuch; it is a Record wherein every man may read himſelfe a ſlave that reads it, having nothing he can call his owne, all proſtitute to the will of another.

What to doe in ſuch a caſe we are not to ſeeke for precedents, our Honourable Anceſtors taught us in the juſt and exemplar puniſhments of chiefe *Juſtice, Treſilian* and his Complices (for giving their *Judgments* out of *Parliament*, againſt the eſtabliſhed *Lawes* of *Parliament*) how tender they were of us, how carefull wee ought to be to continue thoſe Lawes, to preſerve the Liberty of our Poſterity.

I am far from maligning the perſon, nor in my heart with I the Execution of any man, but certainly it ſhall bee a *Iuſtice* well becomming this Houſe, to lay their Heads at his Majeſties mercie, who had laid us under his feet, who had made us but Tenants at will of our Liberties and Eſtates.

And though I cannot but approve of Mercy, as a great Vertue in any Prince, yet I heartily pray it may prove a Precedent as ſafe and uſefull to this oppreſſed State, as that of Juſtice.

Mr. *Speaker*, blaſted may that Tongue be that ſhall in the leaſt degree derogate from the Glory of

of those Halcyon dayes our Fathers enjoyed, during the Government of that ever blessed, never to be forgot Royall *Elizabeth*. But certainly I may safely say (without detraction) it was much advantage to the peace and prosperity of her Raign, that the great Examples of *Empson* and *Dudley*, were then fresh in Memory: *The Civility* of our *Lawes* tell us, that Kings can doe no wrong, and then is the State secure, when Judges (their Ministers) dare doe none. Since our times have found the want of such examples, 'tis fit we leave some to Posterity. God forbid all should be thought or found guilty, there are doubtlesse some Ring-leaders, let us sift out them. *In publique* Government to passe by the Nocent is equall injustice, as to punish the *Innocent*. An omission of that duty now, will be a guilt in us, render us sham'd in History, curst by Posterity, our gracious and (in that act of voluntary Justice) most glorious King, hath given up to the satisfaction of his afflicted People, the Authors of their Ruines: the power of future preservation is now in us. *Et qui non servat patriam, cum potest, idem facit destruenti patriam.*

What though we cannot restore the dammage of the *Common-wealth*, wee may yet repaire the breaches in the bounds of Monarchy. Though it be with our losse and charge, wee shall so leave our childrens children, fenced as with a wall of safety; by the restauration of our Lawes, to their antient Vigor and Lustre.

'Tis too true, that 'tis to be feared, the Revenues of the Crowne ſold out-right, would ſcarce remunerat the injuries, repay the loſſes of this ſuffering Nation, ſince the pronouncing of that fatall Sentence. What proportionable ſatiſfaction then can this Common-wealth receive, in the puniſhment of a few inconſiderable Delinquents? But 'tis a *Rule* valid in Law, approved in equity that *Qui non habent in crumen Luant in Corpore*. And 'tis without all queſtion in policy, exemplar puniſhments conduce more to the ſafety of a ſtate, *then pecuniary reparations; Hope of impunity lul's every bad-great-officer into ſecurity for his time, and who would not venture to raiſe a Fortune, when the alurements of honour and wealth are ſo prævalent, if the worſt is can fall be but Reſtitution.*

Wee ſee the bad effects of this bold-erroneous opinion; what was at firſt, but corrupt Law; by encouragement taken from their impunity, is ſince become falſe Doctrine, the people taught in Pulpits, they have no property, Kings inſtructed in that deſtructive principle, that all is theirs, and is thence deduc'd into neceſſary ſtate-policy, whiſpered in counſell, That he is no Monarch, who is bounded by any *Law*.

By which bad conſequences, the beſt of Kings, hath bin by the infuſion of ſuch poyſonous poſitions diverted from the ſweet inclinations of his owne Naturall Equity and Juſtice, the very eſſence of a King taken from him, which is preſervation

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of his people: and whereas *Salus populi* is, or ſhould be *Suprema Lex*, the power of undoing us, is masqu'd under the ſtile of what ſhould be Sacred Royall Prerogative.

And is it not high time for us to make examples of the firſt Authors of this; ſubverted *Law*, *Bad Counſell*, *worſe Doctrine*?

Let no man thinke to divert us from the purſuit of Iuſtice, by poyſoning the cleare ſtreames of our affections, with jealous feares of his Majeſties Interruption, if wee looke too high. Shall wee therefore doubt of Juſtice, becauſe we have need of great Iuſtice? we may be confident the King well knowes, That his Iuſtice is the Band of our allegeance: that 'tis the ſtaffe, the proofe of his Soveraignty.

'Tis a happy aſſurance of his intentions of grace to us, that our Loyalty hath at laſt won him to tender the ſafety of his people: and certainly (all our Preſſures well weighed this 12. Yeares laſt paſt) it will be found the paſſive Loyalty of this ſuffering Nation, hath out-done the active duty of all Times and Stories. As the *Poet* hath it, *fortiter ille facit, qui miſer eſſe poteſt*: I may as properly ſay, *Fideliter fecimus*, we have done loyally to ſuffer ſo *patiently*.

Then ſince our Royall *Lord* hath in mercy viſited us, let not us doubt, but in his Juſtice hee will redeeme his people. *Qui timidè rogat docet negare.* But when Religion is innovated, our Liberties violated, ~~our Fundamentall Lawes abrogated,~~

our moderne Lawes already obſoleted, the propriety of our Eſtates alienated. Nothing left us, wee can call our own, but our miſery and our patience: if ever any Nation might juſtifiably, this certainly may now, now moſt properly, moſt ſeaſonably cry out, and cry aloud, *vel Sacra Regnet Iuſtitia, vel Ruat Cœlum.*

Mr. *Speaker*, the ſumme of my humble motion is, that a ſpeciall *Committee* may be appointed, to examine the whole carriage of that Extrajudiciall judgment. Who were the Counſellers, Soliciters, and Subſcribers to the ſame: the Reaſons of their Subſcription, whether according to their opinions; by importunity or preſſure of others, whether *pro forma tantum*. And upon report thereof to draw up a charge againſt the guilty, and then

Curat Lex, Fiat Iuſtitia.

FINIS.